

1 John Eddie Williams, Jr. (*pro hac vice*)  
2 John Boundas (*pro hac vice*)  
3 Brian Abramson (*pro hac vice*)  
4 Margret Lecocke (*pro hac vice*)  
5 Walt Cubberly (SBN 325163)  
6 **WILLIAMS HART & BOUNDAS, LLP**  
7 8441 Gulf Freeway, Suite 600  
8 Houston, TX 77017  
9 Tel: (713) 230-2200  
10 Fax: (713) 643-6226  
11 wcu<sup>b</sup>berly@whlaw.com  
12 mlecocke@whlaw.com

13 CO-LEAD AND LIAISON COUNSEL FOR PLAINTIFFS

14 [ADDITIONAL COUNSEL LISTED ON FOLLOWING PAGE]

15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**  
17 **SAN FRANCISCO DIVISION**

18 **IN RE: UBER TECHNOLOGIES, INC.,**  
19 **PASSENGER SEXUAL ASSAULT**  
20 **LITIGATION**

21 **No. 3:23-md-03084-CRB**

22 This Document Relates to:

23 All Cases

24 **CALIFORNIA JCCP PLAINTIFFS'**  
25 **MOTION TO EXTEND THE COURT'S**  
26 **ORDER SETTING FILING CUTOFF**  
27 **DATE**

28 Judge: Honorable Charles R. Breyer

1 William A. Levin (SBN 98592)  
2 David M. Grimes (SBN 324292)  
3 Samira J. Bokaie (SBN 332782)

4 **LEVIN SIMES LLP**

5 1700 Montgomery Street, Suite 250  
6 San Francisco, CA 94111  
7 Tel: (415) 426-3000  
8 Fax: (415) 426-3001  
9 wlevin@levinsimes.com

10 Stephen J. Estey (SBN 163093)  
11 R. Michael Bomberger (SBN 169866)  
12 Angela J. Nehmens (SBN 309433)

13 **ESTEY & BOMBERGER, LLP**

14 2869 India Street  
15 San Diego, CA 92103  
16 Tel: (619) 295-0035  
17 Fax: (619) 295-0172  
18 steve@estey-bomberger.com  
19 mike@estey-bomberger.com  
angela@estey-bomberger.com

20 C. Brooks Cutter (SBN 121407)  
21 Celine Cutter (SBN 312622)

22 **CUTTER LAW, P.C.**

23 401 Watt Avenue  
24 Sacramento, CA 95864  
25 Tel: (916) 290-9400  
26 Fax: (916) 588-9330  
27 bcutter@cutterlaw.com  
ccutter@cutterlaw.com

28 *Co-Lead and Liaison Counsel for JCCP Plaintiffs*

The California JCCP Plaintiffs respectfully request that the Court extend the filing cutoff date from August 26, 2024, to 60 days after the California Supreme Court grants or denies the California JCCP Plaintiffs' petition to review the California Court of Appeal's opinion upholding Judge Schulman's *forum non conveniens* order.

## **INTRODUCTION AND BACKGROUND**

On June 24, 2024, the California Court of Appeal issued its decision upholding Judge Schulman’s rulings on Uber’s FNC motion. That decision becomes final on July 24, 2024, *see* Cal. R. Ct. 8.264, at which point the JCCP Plaintiffs will have until August 5, 2024, to petition the California Supreme for review of the Court of Appeal’s decision. *See* Cal. R. Ct. 8.500(e)(1). Co-Lead Counsel for the JCCP Plaintiffs have engaged appellate counsel and will file a petition for review with the California Supreme Court.

Once the JCCP Plaintiffs file their petition for review, the California Supreme Court will have 60 days to take up the petition. *See Cal. R. Ct. 8.512(b)(1)*. The California Supreme Court may order an extension of the time to consider the petition, but only up to 30 more days. *See id.* Accordingly, at the very latest, if the JCCP Plaintiffs file their petition to review on August 5, 2024, and the California Supreme Court extends the time to consider the petition for 30 days (90 days total), the California Supreme Court will either grant or deny the JCCP Plaintiffs' petition for review by November 4, 2024. Thus, the latest date the filing cutoff date would be set is January 3, 2025.

JCCP Plaintiffs conferred with MDL Plaintiffs leadership and Uber regarding this Motion. MDL Plaintiffs are agreeable to an extension of 30–45 days but are opposed to an extension beyond that timeframe. Uber is opposed to the JCCP Plaintiffs' requested extension.

## **ARGUMENT**

The Court has great discretion to manage its docket to achieve just resolution of its cases, and the Ninth Circuit regularly defers to the trial court's setting of deadlines to manage its docket. *See In re Phenylpropanolamine (PPA) Prod. Liab. Litig.*, 460 F.3d 1217, 1227 (9th Cir. 2006).

1       First, there will not be considerable delay in setting the filing cutoff date at 60 days after  
 2 the California Supreme Court grants or denies the JCCP Plaintiffs' petition. The farthest out the  
 3 cutoff date could be is January 3, 2025 — 60 days after the November 4 deadline if the  
 4 California Supreme Court were to order the largest extension of time it can order.

5       Second, there will be no prejudice to Uber should the Court grant Plaintiffs' motion.  
 6 These cases are already filed in the JCCP proceeding, and they are stayed pending the outcome  
 7 of the appeals process. Uber is aware of the universe of cases affected by the Court's June 26,  
 8 2024 Order that currently sets August 26, 2024, as the cutoff to file JCCP cases in the MDL. And  
 9 the extension proposed by the JCCP Plaintiffs comes well before any trials will have begun in  
 10 either the MDL or the JCCP, which does not have trial settings until Summer 2025. Accordingly,  
 11 there will be no prejudice to Uber to set the filing cutoff date after the California Supreme Court  
 12 rules on the JCCP Plaintiffs' petition for review.

13       If there is any prejudice to any party should the Court grant the JCCP Plaintiffs' motion,  
 14 it would be to the JCCP Plaintiffs. By seeking further review of Judge Schulman's grant of  
 15 Uber's FNC motion, the JCCP Plaintiffs will delay the resolution of their claims. But the JCCP  
 16 Plaintiffs believe that such delay is worthy in their pursuit to litigate their claims in their chosen  
 17 forum.

18       Finally, denying this motion would prejudice the JCCP Plaintiffs by forcing them to  
 19 choose between, on one hand, their right to exercise all appellate review of Judge Schulman's  
 20 FNC order and, on the other, their ability to join a coordinated action. It would not serve the ends  
 21 of justice to force the JCCP Plaintiffs to abandon their appellate efforts in the California State  
 22 Courts before they know whether the California Supreme Court is willing to entertain their  
 23 petition for review. The JCCP Plaintiffs should not be denied those benefits of coordination  
 24 merely because they are exercising their rights to petition to the California Supreme Court to  
 25 review the Appellate Court's opinion.

## **CONCLUSION**

For the foregoing reasons, the California JCCP Plaintiffs request the Court grant their motion to extend the filing cutoff date to 60 days after the California Supreme Court grants or denies the California JCCP Plaintiffs' petition to review the California Court of Appeals opinion upholding Judge Schulman's FNC order.

Respectfully Submitted,

Dated: July 17, 2024

ESTEY & BOMBERGER, LLP

By: Angela R.  
Stephen J. Estey  
Angela J. Nehmens

Dated: July 17, 2024

LEVIN SIMES LLP

By:   
William A. Levin  
Laurel L. Simes

Dated: July 17, 2024

CUTTER LAW PC

By:   
Brooks Cutter  
Celine Cutter

Dated: July 17, 2024

WILLIAMS HART & BOUNDAS, LLP

By:   
Walt Cubberly  
Margret Lecocke

*Co-Lead Counsel for JCCP Plaintiffs*

1                   **CERTIFICATE OF SERVICE**

2                   I hereby certify that on July 17, 2024, I electronically filed the above document with the  
3 Clerk of Court using the CM/ECF system which automatically sends notification of the filing to  
4 all counsel of record. In addition, the foregoing was served on Defendants' counsel via email at:  
5 MDL3084-service-Uber@paulweiss.com.

6

7                   By: /s/ Walt Cubberly

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28